

declaration have reviewed and understand the content of the specification, including the claims, as amended by any amendment specifically referred to in the Oath or Declaration.

This revised reissue declaration meets all of the requirements of the rules, and the rejection of claims 1-164 on this basis should be withdrawn.

The Examiner rejected claims 17-164 under 35 U.S.C. § 251 for allegedly being improper recapture of broadened claimed subject matter allegedly surrendered in the original application for patent.

The Examiner contends that the applicants surrendered subject matter broader than the issued claims with respect to the claimed "coil." The Examiner's position is confusing and in places self-contradictory because the Examiner states at page 3, line 10 that the prosecution history "demonstrates a surrender of subject matter in the form of a coil." See also, page 4, lines 7-10. Since claim 1 of the issued patent recites "a coil," (whereas new claims 17 and 100, for example, recite the broader term "an antenna"), subject matter in the form of a coil clearly was not surrendered; it would appear that the Examiner meant to argue that applicants allegedly surrendered subject matter broader than a "coil". Assuming that this is what the Examiner meant to say, applicants respectfully submit that the Examiner is incorrect. No surrender occurred, and hence, there is no effort at recapture.

In support of his erroneous position, the Examiner cites arguments made by applicants in the January 8, 1998 Amendment, citing page 4, lines 14 and 20, and page 6, lines 5 and 8. Careful review of these pages and lines indicates that the Examiner has cited statements from this amendment out of context, and misconstrued those statements. At page 4, lines 14-20 of the January 8, 1998 amendment, applicants representative addressed the thickness of a dielectric window in the prior art, which

worked against the efficiency of an em field generated by a coil; these arguments were not related to the significance of a coil in the present invention. At page 6, applicants' representative addressed the importance in dependent claims 26-28 (patent claims 7-9) of an auxiliary gas supply to cool a coil and a shower head. This argument, therefore, related to significance of the auxiliary gas supply, not to the significance of the coil, and in addition was directed to narrower dependent claims, not to the broader independent claim. In neither instance were applicants arguing for patentability of the claims based on the recitation of a "coil" in the claimed combination. The arguments being presented by the applicants would have been equally applicable if an "antenna" had been referred to, rather than a "coil." Simple use of the word "coil" in their argument did not surrender subject matter broader than a coil; the Examiner's position appears to be based on a word search for the term "coil," and not on a reasonable consideration of the arguments that were being presented. In addition, the Examiner has selectively cropped the quote from page 6, where applicants' representative went on to state at lines 9-10 of page 6 that "an induction electrode is mounted in the auxiliary chamber to induce generation of the plasma," thereby using a broader "electrode" term, rather than the "coil" term. To the extent the Examiner may rely on the presence of the term "coil" in support of an assertion that applicants have surrendered subject matter, applicants submit that use of the broader term "electrode" in the same context indicates that broader subject matter was not surrendered. The Examiner further relies on col. 1, lines 55-58 of the '261 patent for disclosing a "coil." This statement also is taken out of context, and reflects a failure to read the specification in its entirety, because col. 6, lines 27-31 disclose an "induction electrode or antenna 102, which comprises in this case, two coils 106a and 106b. While coils may have been a preferred embodiment, or even possibly a best mode known at the time of filing, the invention is not limited to coils, particularly when

the specification and file history, when read in their entirety, expressly refer to this component more broadly as an "induction electrode" or an "antenna."

The Examiner's position therefore is traversed. Subject matter broader than the claimed "coil" in claim 1, was not surrendered. Hence, there is no recapture, and this rejection is unsupportable.

The Examiner objected to informalities in claim 1 and rejected claim 155 for an informality. Applicants have corrected the cited informalities in claims 1 and 155 per the Examiner's suggestions, rendering the objection and rejection moot.

The Examiner rejected claims 85-87, 92-93, 99, 120-121, 128-129, and 135-136 under § 102(e) over Cuomo '154; rejected claims 88-89, 119, 122 and 164 under § 103 over Cuomo in view of Benzing '578; rejected claims 90 and 126 over Cuomo in view of Ogle '458; rejected claims 94-98 and 130-134 over Cuomo in view of Itoh '558. To support all of these rejections, the Examiner contends that Cuomo has valves and exhaust pumps that inherently act as pressure controllers, controlling  $\Delta p$  between a process container and auxiliary container.

This position is improper, and contradicts the position taken by the Examiner during prosecution of the '261 patent, wherein the claims were allowed over Cuomo because Cuomo lacked a pressure controller. Moreover, although claim 1 likewise claims a pressure controller, it has not been rejected. Applicants traverse all of the statements made by the Examiner arguing that the cited references can be combined, and that such combination would render respective claims obvious. In addition, independent claim 85 has been amended to recite an antenna including a planar spiral coil having a quadrilateral outer configuration (as shown, e.g., in Figs. 6-8). This antenna configuration in combination with the other claim features, is neither disclosed

in Cuomo, nor suggested by Cuomo, alone or combined with any of the cited secondary references. In addition, independent claim 100 has been amended to recite the fact that the first and second container portions each have substantially the same diameter (as shown, e.g., in Fig. 1). This container configuration in combination with the other claim features, likewise is not disclosed or suggested by Cuomo, taken alone or in combination with the secondary references.

The Examiner stated that claims 1-10 would be allowable if the reissue declaration issue was resolved. Submission of the revised reissue declaration places claims 1-10 in condition for allowance. Claims 17-124 are allowable in view of the Examiner's improper position regarding recapture, correction of the reissue declaration issues, correction of the cited informalities, and the successful traversal of the various rejections under § 102 and § 103.

Applicants submit that claims 1-144 are in condition for allowance, and request reconsideration, withdrawal of the rejections, and a issuance of a prompt Notice of Allowance.

If there are any fees due in connection with the filing of this Amendment, please charge them to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

By: David W. Hill, Reg. No. 28,220  
for James W. Edmondson  
Reg. No. 33,871

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